

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION**

**Call to Order:** By **CHAIRMAN RIC HOLDEN**, on January 29, 2001 at 3:10 P.M., in Room 422, Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Ric Holden, Chairman (R)  
Sen. Pete Ekegren, Vice Chairman (R)  
Sen. Mike Halligan (D)  
Sen. Greg Jergeson (D)  
Sen. Walter McNutt (R)  
Sen. Linda Nelson (D)  
Sen. Gerald Pease (D)  
Sen. Corey Stapleton (R)  
Sen. Jon Tester (D)  
Sen. Tom Zook (R)

**Members Excused:** Sen. Arnie Mohl (R)

**Members Absent:** None.

**Staff Present:** Laramie Cumley, Committee Secretary  
Doug Sternberg, Legislative Services

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 197 1/10/01  
Executive Action: none

**Sponsor:** SEN. JON TESTER, SD 45, Big Sandy

**Proponents:** Robyn Klein, Task Force on Wild Medicinal Plants  
E. Inez Wates, Task Force on Wild Medicinal Plants  
Betty Whiting, Montana Association of Churches  
Kristin Sanderson, Montana Audubon  
Kevin Chappel, Montana Department of Natural Resources and Conservation

**John Semple, Montana Cattlewomen, Montana  
Stockgrowers, and Montana Grain Growers Associations  
Nancy Schlepp, Montana Farm Bureau**

**Opponents:** none.

**Opening Statement by Sponsor:**

**SEN. JON TESTER, SD 45, BIG SANDY**, opened the hearing on SB 197 by explaining that this was recommended by the Task Force on Wild Medicinal Plants which was appointed by **Governor Racicot**.

Sections of the bill were then briefly explained

- 1) Purposes of the bill
- 2) Definitions
- 3) Permission and permitting
- 4) Exemptions
- 5) Record keeping
- 6) Liabilities
- 7) Violations
- 8) 2/3 vote requirement

**Proponents' Testimony:**

**Robyn Klein, Task Force on Wild Medicinal Plants** presented written testimony. **EXHIBIT**(ags23a01)

**E. Inez Wates, Task Force on Wild Medicinal Plants** presented written testimony. **EXHIBIT**(ags23a02)

**Betty Whiting, Montana Association of Churches** testified that land is sacred and it is an obligation to save the land and plants for the future.

**Kristin Sanderson, Montana Audubon** presented written testimony. **EXHIBIT**(ags23a03)

**Kevin Chappel, Montana Department of Natural Resources and Conservation** expressed support for SB 197.

**John Semple, Montana Cattlewomen, Montana Stockgrowers, and Montana Grain Growers Associations** expressed support for sections three, four, and six relating to asking permission.

**Nancy Schlepp, Montana Farm Bureau** spoke in support of the protection of private property rights and liability limits discussed in SB 197.

**Opponents' Testimony:** none.

**Questions from Committee Members and Responses:**

**SEN. TOM ZOOK** questioned the use of St. John's Wort for medicinal purposes since it is considered a noxious weed. He questioned how it is produced and harvested. **E. Inez Wates** explained that St. John's Wort is harvested and processed in bulk from areas such as the National Bison Range, Nine Pipes Wildlife Refuge and Flathead Indian Wildlife Refuge, and Lolo and Kootenai National Forests. This is collected at an optimal time so it does not go to seed.

**SEN. ZOOK** asked about bear grass also known as "soap weed" because he had thoughts of weed control near his home.

**SEN. MIKE HALLIGAN** asked about permitting requirements regarding families picking huckleberries. **SEN. TESTER** replied by explaining that these families would qualify under the exemption portion of the bill as this is mainly for commercial purposes. Permission to be on a persons land or a permit to be on public land is already required.

**SEN. HALLIGAN** clarified that a family that went out and picked a bucket of huckleberries would need to get a permit. **Kimberly Landle, Public Affairs Officer, Helena National Forest** replied if a family went to pick berries for their own use, a permit would not be required, but if a group went out and picked berries intending to sell them they would need a permit.

**SEN. HALLIGAN** remarked that these requirements need to remain the same. **SEN. TESTER** understood that personal use of these resources need to be exempt.

**Robyn Klein**, stated that this bill is primarily intended for those who are wildcrafting for profit. The definitions of wildcrafting and personal uses of resources for camp fires and other personal consumption are exempted and referred to in the language of the bill. People need to find out if they need a permit.

**SEN. GREG JERGESON** asked **Mr. Denny** if he had a comment. **Kirk Denny** responded that he works with the Northern Cheyenne Tribes on issues regarding Agriculture, Natural Resource and weeds. **Mr. Denny** stated that all of the tribes in Montana have noxious weed control programs.

**SEN. LINDA NELSON** inquired about samples given to the Committee, what they were and the uses of them. **E. Inez Wates** explained that the samples included yew soap, lomatium tincture for the respiratory system, and yew salve.

**SEN. RIC HOLDEN** inquired about the 2/3 vote on SB 197. **Doug Sternberg** explained that a Constitutional provision, would require a "super vote" to limit the liability of the landowner. **Robyn Klein**, explained that SB 197 was written in two different sections so that if the 2/3 vote requirement was not met there would still be a liability section in the bill.

**SEN. HOLDEN** asked if any of these plants would be more likely to be endangered by harvesting and marketing. **Robyn Klein** stated that the landowner is responsible for plant management and that there are botanists who work for public lands who know which plants may be harvested without being endangered.

**SEN. COREY STAPLETON** asked about the definition of commercial wildcrafting. He felt that, for example, if a family was to go harvest berries and make jam to give as presents, this would be more berries than a single person could use in one year and that would be commercial wildcrafting for which a permit would be required. **Robyn Klein** replied that section should be struck because the bill is primarily meant for people who wildcraft for profit. This would not be difficult on Montana residents.

**SEN. HALLIGAN** suggested that the county attorney would likely be too busy to deal with these offenses. He suggested that civil penalties such as public lands violations and also first offense warnings should be issued. By examining these first offense warnings and public lands violations for effectiveness, the penalties contained in the bill could be more lenient.

**SEN. TESTER** stated that he assumed the language of the bill in lines 28 and 29 would encompass the family unit.

**Closing by Sponsor:**

**SEN. TESTER** closed by adding the wide gamut of proponents were a great example of the support of this bill. The bill would protect wild plants, stop exploitation, offer property right protection, and set up a reasonable process for harvesting. Wildcrafting was explained to be a compact success because noxious weeds can also be harvested for profit.

**ADJOURNMENT**

Adjournment: 3:45 P.M.

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SEN. RIC HOLDEN, Chairman

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LARAMIE CUMLEY, Secretary

RH/LC

**EXHIBIT** (ags23aad)